organization which was engaging in practices admittedly in violation of the anti-trust laws even if such an organization were not charging unreasonable prices.

At any rate, dissatisfied with the existing status of the law, the farmers' organizations of the country are now endeavoring to procure the passage by Congress of a bill legalizing co-operative farmer organizations for mutual benefit, provided no member is allowed more than one vote and provided the association does not pay dividends on stock or membership capital in excess of 8 per cent per annum. It is now proposed in this measure to grant to the Federal Trade Commission, if it has reason to believe any such association restrains trade or lessens competition to such an extent as to cause an undue enhancement of price of any agricultural product, the power to issue complaint, hold hearings, and ascertain the facts. If it be the opinion of the Commission that such action does unduly enhance prices, it may order the organization to cease and desist from such activity. Appeal to the district court in which the association has its principal place of business is provided for. This measure, as at present worded, expressly provides that nothing therein contained shall be construed to authorize any attempt to create a monopoly or to exempt such organization from the provision of the Federal Trade Commission Act prohibiting unfair methods of competition. This act, if enacted, therefore, would not legalize a monopoly or an attempt to create a monopoly. It would not permit the use of unfair methods of competition, but it would permit the combination of farmers into co-operative organizations and it would permit such organizations to voluntarily restrain competition among their members, provided in so doing they would not unduly enhance prices. In view of the pledges of both parties in the last campaign, the passage of some legislation of this general character appears certain within the next few months.

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NEW PHASES OF THE CLASSIFIED PROPERTY TAX

The recent session of the legislature of Nebraska has added a new chapter to the history of the vexed problem of taxing "intangible" property. Prior to that session such property was dealt with under a general property tax of the less liberal sort, and with the usual results, frequent failure to list such property and gross inequalities of the tax burden when it was listed. Ten years ago, when the question of a better means of supplying "farm credit" was being much agitated, the

legislature took the unexpected step of declaring mortgages secured by real estate within the commonwealth an interest in the real estate, taxable at the situs of the land, and making the landowner taxable only on the amount of his interest in the land. There was, however, a proviso that either party in a mortgage transaction could assume the tax on the other's interest. All mortgages since then have contained the "tax clause" by which the mortgager assumes the tax on the mortgagee's interest—a procedure that was expected, and one that has resulted in the exemption of this class of property from taxation. One other form of "property" has also, in spite of the constitutional mandate to tax all property, been practically exempted by administrative construction. It has been the practice to omit shares of stock in domestic corporations from the tax rolls, when such corporations had property enough in the state to equal the outstanding stock, and this grace was also often granted to owners of shares in foreign corporations paying property taxes in the state.

The new constitution adopted in 1920 loosened somewhat the strait-jacket in which the legislature has had to work, by providing that, while all property except those kinds specifically enumerated must continue to be taxed, intangible property could be classified for purposes of taxation. Under this new authority a bill was introduced in the Senate in January, 1921, providing, among other things, for a four-mill tax on money and credits, shares of stock, and all other forms of "intangible" property except certain classes of such property otherwise dealt with in the bill. Without attempting to give the legislative history of the bill it may be said that after long delays it was passed in the Senate by a very large majority. Coming to the House late in the session, however, it met with considerable opposition both as to details and as to the principle involved. At one time it seemed certain the sections dealing with intangibles would be left out of the measure, but in the end they were retained with considerable modification of the Senate's plan.

As passed, the law provides, not for a uniform rate throughout the state as in Minnesota and other states having a classified tax, but for a rate equal to 25 per cent of the "mill rate levied upon tangible property where the said intangible property is assessed," that is, at the domicile of the owner. The rate on this class of property will therefore vary widely in different tax districts. The arrangement is the outcome of a contest in the legislature between the plain and the mountain.

There were many who could see no reason for "discriminating" between different kinds of property and others who accepted the reasoning upon which the classified tax rests but did not relish the task of

converting to it constituents facing a disastrous situation in their business and already complaining of heavy taxation. Some appearance of equity could be made out if "intangibles" were made to bear a burden in city and country proportioned to the tax real property had to bear. The 25 per cent rate was the best compromise the friends of the flat-rate tax could secure.

The result of the compromise is to place widely different rates on credits according as taxpayers live in the country or the city. The extremes may be seen by comparing the levies in the city of Lincoln with those of a rural district in the same county, School District No. 4. In the city the total levies in 1920 amounted to 146.39 mills on a one-fifth valuation, and in District No. 4, to 29.59 mills. Presumably, the levies for 1922, when the classified tax section goes into operation and the fractional assessment is to be abandoned, will be about one-fifth of the 1920 levies, or about 30 mills (29.26) for the city and about 6 mills for the rural district. The "25 per cent tax" will thus be about 7.5 mills for the city and 1.5 mills for the rural district, on a full valuation.

The advantage for the individual rural owner of this sort of property is striking; the success of the law, however, in making the cities contribute more heavily to the state and county revenues through payments of a higher rate will not prove so striking. This is due to the provision for the distribution of the tax, another unique feature of the law. Instead of a fixed share of the tax going to each taxing unit, as in Minnesota, the law provides that the tax "shall be apportioned to the state and various governmental subdivisions in the same proportion that the respective levies of the State and such governmental subdivisions bear to the total of said levies."

The operation of this provision may be illustrated by comparing, in detail, the levies in the two taxing districts mentioned above. For convenience the Minnesota percentages for the distribution of its tax on money and credits are also given.

	City of Lincoln		District No. 4		Minnesota Percentages
	Mills Levied 1920	Per Cent of Total Levies	Mills Levied 1920	Per Cent of Total Levies	
State	10.39	7.09	10.39	35.11	16⅔
County	14.00	9.50	14.00	47.31	16⅔
City or town	42.00	28.00	....	....	33⅓
School district	80.00	54.71	5.20	17.58	33⅓
Total	146.39	100.00	29.59	100.00	100

It will be observed that while the tax on, say, a thousand-dollar bond, will be \$7.50 in the city and \$1.50 in the rural district, the state and country levies constitute so large a proportion of the total levies that almost exactly the same amount will be paid out of the rural holder's tax to the state and to the county funds as will be paid out of the city holder's larger tax. In other words, the high rate insisted upon for city-owned money and credits will go mainly for purely local uses and will not, in any important way, add to state and county revenues. In Lincoln 83 per cent of the tax will be used for city and school purposes, while in District No. 4 only 17.5 per cent will be so used. In districts where the school levy is higher a larger proportion of the 25 per cent tax will be retained for local use, but the method of distribution will in general be an offset to the advantage sought by imposing the higher rate in the cities.

So much for the general provisions for the taxation of "intangibles." But once started on the course of classification, the legislature did not stop with one class. As stated above, under the so-called mortgage tax law of 1911, domestic mortgages were exempted. The author of the Senate bill, apparently believing that under the specific mandate of the new constitution all property must be taxed, provided for a registry tax on such mortgages of 50 cents per hundred "for each five-year period or major fraction thereof," of their term. The Senate refused to take this view of the constitutional mandate, rejected this proposal and inserted a provision excepting domestic mortgages from the 25 per cent mill rate. Mortgages secured on land outside the state will, however, be taxed at that rate and Nebraska mortgages will continue to be exempt.

Likewise, the author of the bill placed "corporation shares or stocks" under the general classification to take the same rate as moneys and credits. On representation from the corporations that this would mean for them "double taxation" (though it would have been only once the general property rate plus 4 mills on their capitalization) the Senate committee receded from the secure constitutional position of the bill as it originally stood and provided that such shares should be taxed only on the excess of their value over the value of the corporation's property listed and taxed, whether in Nebraska or elsewhere. The corporation is required to pay the 25 per cent tax on this excess, whether the owners of the stock reside in the state or elsewhere, and will have a lien on the stock for the amount of the tax.

Bonds and warrants or other indebtedness of the state and the local governments are made a special class and subjected to a 1-mill flat rate.

On its way through the legislature the bill felt the further influence of the flat-rate idea. Thus the insurance sections were amended by placing a 4-mill tax on the premium receipts of domestic companies while leaving foreign companies subject to the old 2 per cent rate. Building and loan associations are also to pay a 4-mill tax on their "gross earnings."

The new law makes fairly effective provisions for administration. It defines the powers and duties of the office of tax commissioner authorized by the new constitution. The commissioner is charged with the proper execution of the law. Unfortunately he is likely to be hampered in the performance of his duties by the State Board of Equalization of which he is a member. The other members are the governor, the auditor, the treasurer, and the secretary of state. In case the commissioner finds "grossly unfair or inequitable" assessments in any taxing district he is to report the facts to the Board; and the Board may appoint a special assessor and all needed deputies to make a reassessment. The political character of the Board makes it doubtful whether this authority will be exercised as freely as the situation may require.

Foreign corporations transacting business in the state, or offering any of their securities for sale in the state, are required to supply the tax commissioner with a list of shareholders resident in the state with the value of such holdings. The law exempts intangible property from back taxes if placed on the rolls at the first assessment under the law. On the other hand, it contains a sort of sedition provision against "any person, firm, or corporation counseling, advising, aiding, or abetting any person, firm, or corporation to decline, omit, or evade listing any tangible or intangible property for taxation," and attaches what seems to be an ineffectual penalty for giving such advice.

It will be perceived that Nebraska begins its experiment with the classified tax under the double handicap, (1) of a higher rate for the larger cities than has proved successful elsewhere, and (2) of having the administration in the hands of a new office which may find itself hampered by a Board of Equalization more interested in administering political offices than in the semi-judicial duties connected with the tax laws. The outcome of the experiment will be instructive.

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